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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/582,719	04/26/2007	David Browne	044527/312856	4970
826 7590 06/27/2011 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER ELBIN, JESSE A	
			ART UNIT 2614	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,719

Applicant(s)

BROWNE, DAVID

Examiner

JESSE ELBIN

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10 and 12 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 April 2011 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-840)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 4 and 6 are objected to because of the following informalities: the phrase "wherein in the or each set the discrete points" appears to contain a typographical error. For the purposes of examination, "wherein in the or each set the discrete points" will be interpreted as "wherein the or each set of the discrete points" (consistent with claim 5). Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4, 5, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Pllice (US Patent 4,514,598 ('598)) (already of record).

Regarding claim 1, Pllice teaches a mount for a microphone ('598 title), the mount being adapted to rigidly clamp (*via* "microphone cradle"; '598 Figs. 2 and 5 #3) a microphone body ('598 Fig. 1 #21) at a plurality of discrete points ("friction surface"; '598 Figs. 2 and 5 #14) on the circumference of the body ('598 Figs. 1-2).

Regarding claim 2, Pllice remains as applied above.

Pllice further teaches that the plurality of discrete points comprises at least one set of at least three discrete points disposed around the circumference of the microphone body ('598 Fig. 2 *illustrates 6 bands providing 6 discrete friction surfaces*).

Regarding claim 4, Pllice remains as applied above.

Pllice further teaches that the or each set the discrete points are substantially equally spaced around the circumference of the microphone body ('598 Fig. 2 *illustrates the "friction surfaces" being placed at regular intervals*).

Regarding claim 5, Pllice remains as applied above.

Pllice further teaches that the mount comprises a frame ("curved portion"; '598 Fig. 5 #28) and a plurality of members ("isolators"; '598 Figs. 1-5 #2) extending inwardly from the frame ('598 Figs. 2 and 5) to engage the microphone body at the or each set of discrete points ('598 Fig. 1).

Regarding claim 10, Pllice remains as applied above.

Pllice further teaches that at least one inwardly extending member is adjustable ("cradle 3 flexes to receive the microphone body"; '598 col. 3 lines 29-30) to allow the mount to accommodate microphone bodies of different diameters (*implicit in that the "shock-mounting apparatus 15 can cradle a microphone with a body about 3/4" in diameter*"; '598 col. 4 lines 43-44).

Regarding claim 12, Plice teaches a method of clamping a microphone ('598 title) in a mount ('598 Fig. 2) such as to reduce the transmission of vibrations thereto through the mount ("a shock-mounting apparatus for vibrationally isolating a microphone..."; '598 col. 2 lines 6-7), the method comprising rigidly clamping (*via* "microphone cradle"; '598 Figs. 2 and 5 #3) the microphone at a plurality of discrete points ("friction surface"; '598 Figs. 2 and 5 #14) on the circumference of the microphone body ('598 Fig. 1 #21).

4. Claims 1, 2, 4-6, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Shulman (US Patent 4,577,070 ('070)).

Regarding claim 1, Shulman teaches a mount for a microphone ('070 title), the mount being adapted to rigidly clamp (*via* "struts"; '070 Fig. 2 ##56, 58, 60, and 62) a microphone body ('070 Fig. 1 #14) at a plurality of discrete points on the circumference of the body ('070 Fig. 2 ##56, 58, 60, and 62).

Regarding claim 2, Shulman remains as applied above.

Shulman further teaches the plurality of discrete points comprises at least one set of at least three discrete points disposed around the circumference of the microphone body ('070 Fig. 1 *illustrates four points disposed around the circumference of the microphone body*).

Regarding claim 4, Shulman remains as applied above.

Shulman further teaches that the or each set of the discrete points are substantially equally spaced around the circumference of the microphone body ('070 Fig. 1 *illustrates each set of two points being disposed on each side of the circumference of the microphone body*).

Regarding claim 5, Shulman remains as applied above.

Shulman further teaches that the mount comprises a frame ('070 Fig. 3 #30) and a plurality of members ("struts"; '070 Fig. 2 ##56, 58, 60, and 62) extending inwardly from the frame (i.e. *towards the microphone from the frame*) to engage the microphone body at the or each set of discrete points ('070 Fig. 2 ##56, 58, 60, and 62).

Regarding claim 6, Shulman remains as applied above.

Shulman further teaches that wherein the or each set of the discrete points are engaged by the free ends of respective members extending inwardly (i.e. the tips of the "struts"; '070 Fig. 1) from a respective support surrounding the microphone body ('070 Fig. 1 *illustrates the struts being situated at four points surrounding the microphone body*).

Regarding claim 12, Shulman teaches a method of clamping a microphone ('070 title) in a mount such as to reduce the transmission of vibrations through the mount, the method comprising rigidly clamping (via "struts"; '070 Fig. 2 ##56, 58, 60,

and 62) the microphone ('070 Fig. 1 #14) at a plurality of discrete points on the circumference of the microphone body ('070 Fig. 2 ##56, 58, 60, and 62).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pllice (US Patent 4,514,598 ('598)) (already of record) in view of Cech (US Patent 4,546,950 ('950)) (already of record).

Regarding claim 3, Pllice remains as applied above.

Pllice does not explicitly teach that "the mount is adapted to clamp the microphone body at first and second sets of at least three discrete points around its circumference, the first and second sets of discrete points lying in substantially parallel spaced planes".

In the same field of endeavor, Cech teaches a mount being adapted to clamp the microphone body ('950 Fig. 1 #5) at first (e.g. front; '950 Fig. 1) and second (e.g. back; '950 Fig. 1) sets of at least three discrete points around its circumference (*as taught by Pllice above*), the first and second sets of discrete points lying in substantially parallel spaced planes ('950 Fig. 1) for the benefit of securely holding a longer microphone.

It would have been obvious to one of ordinary skill in the art at the time of the invention to duplicate the rigid clamp taught by *Pllice* by locating a second clamp in a parallel plane, as taught by *Cech*, for the benefit of securely holding a longer microphone.

Allowable Subject Matter

7. Claims 7-9 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments filed April 27, 2011 have been fully considered but they are not persuasive.

a. Applicant argues that "the contact between each of the isolators...and the held microphone of *Pllice* does not constitute contact at a discrete point, but rather contact over a large area or surface" (p. 5 end). Examiner respectfully disagrees as *Pllice* illustrates a plurality of isolators ('598 #2), which surround the microphone while still remaining "separate, detached from others, individually distinct" ("discrete, A. 1. a."; OED, second edition). Relating to the "points" of contact, *Pllice*'s illustration of discrete isolators can reasonably be considered "A separate or single item, article, or element in an extended whole" ("point, n¹, l. 1.

a.”; OED, third edition). Accordingly, *Plice*'s individual isolators can reasonably be considered to “clamp...at a plurality of discrete points”.

b. Applicant argues that “the isolators (2) of *Plice* fluidly contact the held microphone so as to absorb external vibrations, as opposed to the discrete contact points...which rigidly clamp the microphone body” (p. 6 middle).

Examiner respectfully disagrees, as the art rejections above indicate that “rigidly clamp[ing]...at a plurality of discrete points” (claim 1) as being performed by the “cradle 3” and “friction surface 14” (‘598 Figs. 1-5). Although *Plice* teaches each of the components of the clamp being resilient (to facilitate insertion of the microphone and to dampen external vibrations), the structure of *Plice* is meant to hold the microphone firmly in place, so that it does not accidentally fall from the mount. As such, the action of “clamp[ing]” the microphone is performed “rigidly” (i.e. the clamping action is “not pliant or flexible; firm; hard” (“rigid, A. adj. I. 3. a.”; OED, third edition)).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSE ELBIN whose telephone number is (571)270-3710. The examiner can normally be reached on Monday through Friday, 9:00am to 6:00pm EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JESSE A ELBIN/
Examiner, Art Unit 2614